

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 699

Short Title: Clerk Summons Jurors/Magistrate Eligibility. (Public)

Sponsors: Representatives Saine and Faircloth (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary Subcommittee A.

April 11, 2013

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE CLERK OF SUPERIOR COURT SHALL SUMMON PROSPECTIVE JURORS FOR SERVICE AND TO PROVIDE THAT CERTAIN LAW ENFORCEMENT OFFICERS WITH AT LEAST FIFTEEN YEARS OF EXPERIENCE ARE ELIGIBLE FOR NOMINATION AS MAGISTRATES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 9-5 reads as rewritten:

"§ 9-5. Procedure for drawing panel of jurors.

At least 30 days prior to any session or sessions of superior or district court requiring a jury, the clerk of superior court or assistant or deputy clerk shall prepare or have electronically prepared a randomized list of names from the master jury list equal to the number of jurors required for the session or sessions scheduled. The clerk of superior court may decrease the number of randomized names to account for the addition of names of previously selected jurors whose service has been deferred to this session. For each week of a superior court session, the senior resident superior court judge for the district or set of districts as defined in G.S. 7A-41.1(a) in which the county is located shall specify the number of jurors to be drawn. For each week of a district court jury session, the chief district judge of the district court district in which the county is located shall specify the number of jurors to be drawn. Pooling of jurors between or among concurrent sessions of various courts is authorized in the discretion of the senior regular resident superior court judge. When pooling is utilized, the senior regular resident superior court judge, after consultation with the chief district judge when a district court jury is required, shall specify the total number of jurors to be drawn for such concurrent sessions. When grand jurors are needed, at least nine additional names shall be drawn.

The clerk of superior court shall ~~either (i) prepare and issue the summonses or (ii) deliver the printed summonses or the list of names and addresses of jurors to the sheriff, who shall issue the summonses in accordance with the provisions of G.S. 9-10(a). Jurors who serve each week shall be discharged at the close of the weekly session or sessions, unless actually engaged in the trial of a case, and then they shall not be discharged until their service in that case is completed.~~

SECTION 1.(b) G.S. 9-10(a) reads as rewritten:

"(a) The clerk of court shall serve the summons by first-class ~~mail, or shall deliver either printed summonses or the list of the panel of prospective jurors to the sheriff of the county, who shall summon the persons named therein. The summons shall be served personally, or by leaving a copy thereof at the place of residence of the juror, mail~~ or by telephone or first-class ~~mail,~~ at least 15 days before the session of court for which the juror is summoned. Service by



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1 telephone, or by first-class mail if mailed to the correct current address of the juror on or before
2 the fifteenth day before the day the court convenes, shall be valid and binding on the person
3 served, and he shall be bound to appear in the same manner as if personally served. The
4 summons shall contain information as to the time, place, and authority before whom
5 applications for excuses from jury service may be ~~heard~~heard and shall be clearly marked to
6 indicate that the clerk of superior court has issued the summons rather than the sheriff."

7 **SECTION 1.(c)** G.S. 9-11(a) reads as rewritten:

8 "(a) If necessary, the court may, without using the jury list, order the ~~sheriff~~clerk of
9 court to summon from day to day additional jurors to supplement the original venire. Jurors so
10 summoned shall have the same qualifications and be subject to the same challenges as jurors
11 selected for the regular jury list. If the presiding judge finds that service of summons by the
12 ~~sheriff~~clerk is not suitable because of his direct or indirect interest in the action to be tried, the
13 judge may appoint some suitable person in place of the ~~sheriff~~clerk to summon supplemental
14 jurors. The clerk of superior court shall keep a record of the names of those additional jurors
15 who are so summoned and who report for jury service."

16 **SECTION 1.(d)** G.S. 7A-103 reads as rewritten:

17 **"§ 7A-103. Authority of clerk of superior court.**

18 The clerk of superior court is authorized to:

- 19 (1) Issue subpoenas to compel the attendance of any witness residing or being in
20 the State, or to compel the production of any document or paper, material to
21 any inquiry in his court.
- 22 (2) Administer oaths, and to take acknowledgment and proof of the execution of
23 all instruments or writings.
- 24 (3) Issue commissions to take the testimony of any witness within or without the
25 State.
- 26 (4) Issue citations and orders to show cause to parties in all matters cognizable
27 in his court, and to compel the appearance of such parties.
- 28 (4a) Summon prospective jurors pursuant to Article 1 of Chapter 9 of the General
29 Statutes.
- 30 (5) Enforce all lawful orders and decrees, by execution or otherwise, against
31 those who fail to comply therewith or to execute lawful process. Process
32 may be issued by the clerk, to be executed in any county of the State, and to
33 be returned before him.
- 34 (6) Certify and exemplify, under seal of his court, all documents, papers or
35 records therein, which shall be received in evidence in all the courts of the
36 State.
- 37 (7) Preserve order in this court, punish criminal contempts, and hold persons in
38 civil contempt; subject to the limitations contained in Chapter 5A of the
39 General Statutes of North Carolina.
- 40 (8) Adjourn any proceeding pending before him from time to time.
- 41 (9) Open, vacate, modify, set aside, or enter as of a former time, decrees or
42 orders of his court.
- 43 (10) Enter default or judgment in any action or proceeding pending in his court as
44 authorized by law.
- 45 (11) Award costs and disbursements as prescribed by law, to be paid personally,
46 or out of the estate or fund, in any proceeding before him.
- 47 (12) Compel an accounting by magistrates and compel the return to the clerk of
48 superior court by the person having possession thereof, of all money,
49 records, papers, dockets and books held by such magistrate by virtue or color
50 of his office.

- 1 (13) Grant and revoke letters testamentary, letters of administration, and letters of
2 trusteeship.
3 (14) Appoint and remove guardians and trustees, as provided by law.
4 (15) Audit the accounts of fiduciaries, as required by law.
5 (16) Exercise jurisdiction conferred on him in every other case prescribed by
6 law."

7 **SECTION 2.** G.S. 7A-171.2(b) reads as rewritten:

8 "(b) To be eligible for nomination as a magistrate, an individual shall ~~have~~meet one of
9 the following requirements:

- 10 (1) Have at least eight years' experience as the clerk of superior court in a
11 county of this ~~State or shall have~~State.
12 (2) Have a four-year degree from an accredited senior institution of higher
13 ~~education or shall have~~education.
14 (3) Have a two-year associate degree and four years of work experience in a
15 related field, including teaching, social services, law enforcement, arbitration
16 or mediation, the court system, or counseling.
17 (4) Have at least 15 years' experience as:
18 a. A certified law enforcement officer under the provisions of Chapter
19 17C of the General Statutes.
20 b. A certified deputy sheriff under the provisions of Chapter 17E of the
21 General Statutes.
22 c. A sheriff in this State.

23 The Administrative Officer of the Courts may determine whether the work experience is
24 sufficiently related to the duties of the office of magistrate for the purposes of this subsection.
25 In determining whether an individual's work experience is in a related field, the Administrative
26 Officer of the Courts shall consider the requisite knowledge, skills, and abilities for the office
27 of magistrate.

28 The eligibility requirements prescribed by this subsection do not apply to individuals
29 holding the office of magistrate on June 30, 1994, and do not apply to individuals who have
30 been nominated by June 30, 1994, but who have not been appointed or taken the oath of office
31 by that date."

32 **SECTION 3.** Section 1 of this act becomes effective January 1, 2014, and applies
33 to jury summonses issued on or after that date. The remainder of this act becomes effective
34 October 1, 2013, and applies to nominations for magistrate made on or after that date.